



May 7, 2021

VIA ECF

Honorable Steven Tiscione
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11208

*Re: Suriel v. The Port Authority of New York & New Jersey et. al.
1:19 civ 03867 (PKC) (ST)*

Dear Judge Tiscione:

Defendants respectfully submit this letter in support of their application for an extension of discovery which ends today, 5/7/21. Despite Defendants diligent efforts to complete discovery by 5/7/21, we are requesting this Court to grant an additional ninety-day extension to complete fact discovery. Plaintiff is objecting to Defendants' discovery extension request.

a) Discovery Completed Since the Conference on April 20

Since the last conference on April 20, 2021, the parties have completed: the on-site inspection of the American Airlines facility at JFK; the deposition of non-party American Airlines witness Robert Davis; the deposition of non-party VIA witness Stephan Kendall; the deposition of Defendant Officer Brett Telesford; and the continued deposition of Plaintiff Francisco Suriel.

b) Pending Submissions by Defendants

On April 26, 2021, Defendants submitted to this Court a subpoena duces tecum for endorsement for the Health and Hospital Records, which are the records of the examination of Mr. Suriel on the night of his arrest by FDNY EMTs before he was accepted at Central Booking. We were advised by FDNY that the records, which we need to depose the FDNY EMTs, were transferred to Health and Hospitals. FDNY subpoenas previously endorsed by the Court have been pending since service of process on March 12, 2021 because we are waiting on obtaining these records.



c) Outstanding Medical Records

Defendants are seeking so-ordered subpoenas for the medical records of Plaintiff's medical providers who have failed and refused to respond to Defendants' authorizations and subpoenas. These medical providers are: Advanced Orthopedics and Joint Preservation; Big Apple Pain Management; Brooklyn Medical Practice; North Shore Family Chiropractic; Unicorn acupuncture; and Total Orthopedics. They all have offices within the Medical Wellness Center at 410 Ditmas Avenue, Brooklyn, New York. Initial HIPAA-authorizations for these records were sent in fall 2019. Thereafter, new authorizations were re-submitted in August 2020 and a subpoena was served in September 2020 for these records. Therefore, we are requesting the Court to so-order a subpoena duces tecum attached herewith to obtain these medical records. Defendants have also not been able to obtain any records of Plaintiff's physical therapy, which he claims he has been doing since the arrest in 2018. Nor have Defendant's been able to ascertain the name of the physical therapy group or obtain an authorization for those records.

d) Depositions of Doctors

Defendants will be seeking the depositions of Dr. Sayeedus Salehin and Dr. Emilio Oribe who are currently treating Plaintiff according to Plaintiff's testimony on May 6 for injuries arising from this arrest. Defendants have sought but not obtained Dr. Salehin's medical records and only recently learned about Dr. Oribe. These doctors also appeared on an expanded witness list served on May 5, 2021 at 7:35 pm. Dr. Lerman was previously noticed for deposition, but on the eve of his scheduled deposition, Defendants were informed he was being designated as an expert. Defendants intend to proceed with his deposition in this new capacity.

e) An Order Directing Jamaica Hospital to produce Mathew Lindstadt

Defendants are requesting a new so-ordered subpoena directing Jamaica Hospital to produce EMT Matthew Lindstadt. This Court previously so-ordered the deposition of Jamaica Hospital EMT Lindstadt on March 30, 2021 for an April 8, 2021 deposition. Despite service of the subpoena to Jamaica Hospital on March 31, 2021, EMT Lindstadt did not contact our office until after the April 8th subpoena date. After conferring with Plaintiff's counsel and EMT Lindstadt, all parties mutually agreed on May 7, 2021 to hold the deposition via video. Defendants spoke to EMT Lindstadt on May 6th confirming he would appear at 10:00am for the deposition. However, EMT Lindstadt did not appear for two hours and despite counsel's multiple phone calls to the witness and Jamaica Hospital, Defendants had no choice but to adjourn the deposition. As such, more time is needed to complete the deposition of EMT Lindstadt as this witness is crucial to the facts surrounding plaintiff's alleged damages in the moments following his arrest.

f) Outstanding Demands for Documents

As part of the Court's ruling on April 20, 2020, Plaintiff was to provide the contact information for Plaintiff's accountants/tax preparers and vehicle licenses and registrations pertaining to his business. Defendants have not received these records to date.



The Discovery Schedule

Despite the parties' diligent efforts, there remains a substantial amount of discovery to be completed in this case. The remaining depositions and documents sought are non-parties who are outside of the parties' control.

Defendants are therefore requesting an extension of discovery and are proposing the following schedule:

August 6, 2021: Fact Discovery to Be Completed

September 22, 2021: Expert Disclosure to Be Completed

October 22, 2021: Deadline for Dispositive Motions

Respectfully submitted

/s/Kathleen Gill Miller
Kathleen Gill Miller

cc: **VIA ECF**
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